

# ROBINSON, McFADDEN & MOORE, P.C.

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*L. J. Moore*  
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CELEBRATING A CENTURY  
OF SERVICE TO  
CLIENTS AND COMMUNITY

June 6, 2001

Mr. Gary E. Walsh  
Executive Director  
Public Service Commission of South Carolina  
Synergy Business Park, Saluda Building  
101 Executive Center Drive  
Columbia, South Carolina 29210

Re: BellSouth Telecommunications Section 271 Application  
Docket No. 2001-209-C

Dear Mr. Walsh:

Enclosed for filing in the above-reference docket please find the Motion to Reconsider Scheduling Decision of NewSouth Communications Corp. and the South Carolina Cable Television Association. By copy of this letter we are serving the same on counsel for BellSouth and other interested parties. Please stamp the extra copies provided as proof of filing and return them with our courier. Should you have any questions, please contact me.

Very truly yours,

ROBINSON, McFADDEN & MOORE, P.C.

*F. Ellerbe* / *bds*  
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/bds  
enclosure

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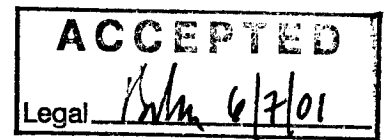
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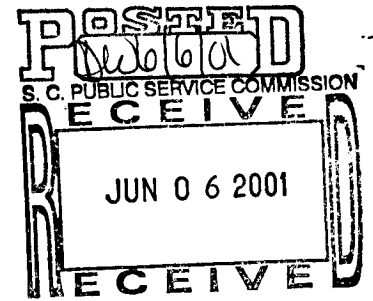


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BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

Docket No. 2001-209-C



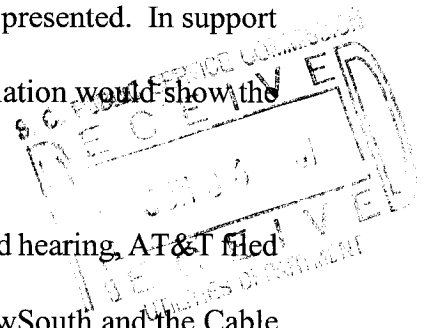
In Re: )  
)  
Application of )  
BellSouth Telecommunications, Inc. )  
To Provide In-Region InterLATA )  
Services Pursuant to Section 271 )  
of the Telecommunications Act of 1996 )  
)  
\_\_\_\_\_ )

MOTION TO RECONSIDER  
SCHEDULING DECISION

At its hearing on May 15, 2001, this Commission voted to begin hearings on BellSouth's application to provide in-region interLATA services pursuant to Section 271 of the Telecommunications Act of 1996 on July 23, 2001. Intervenors NewSouth Communications and the South Carolina Cable Television Association ("Cable Association") now move the Commission for an order rejecting BellSouth's request for an expedited hearing and rescheduling the hearing in this matter at a time which will allow appropriate development of the issues presented. In support of the motion, NewSouth Communications and the Cable Television Association would show the following:

1. On May 14, in response to BellSouth's request for an expedited hearing, AT&T filed a detailed memorandum with attachments arguing against that request. NewSouth and the Cable Association incorporate AT&T's response and its arguments in this motion. AT&T's arguments are compelling and demonstrate that there is no reason to expedite the hearing in this matter.

2. BellSouth has made no showing as to any reason which would justify the abbreviated opportunity for discovery and preparation which will be afforded by the expedited hearing date which this Commission has approved. Haste in addressing § 271 compliance in South Carolina is



particularly inappropriate and pointless given BellSouth's intent to rely here on its showing that its Operational Support Systems ("OSS") are satisfactory in Georgia and Florida. In its comments filed in Docket 2000-0013-C, the Generic Proceeding to Address Performance Measures and Third Party Testing, BellSouth urged this Commission not to order its own third-party testing of OSS but to rely on the third-party testing being done in Georgia and Florida. See Comments of BellSouth filed April 14, 2000, p.7. (Exhibit A).

BellSouth's reliance on its showing in these other states makes two things clear: (1) this Commission should not go forward to address BellSouth's § 271 application until Georgia and Florida have completed their reviews; and (2) the FCC will consider Georgia and Florida to be "anchor" states with respect to South Carolina and will not review the South Carolina application until it has reviewed the applications from the anchor states. See ¶s 34-38, FCC Memorandum Opinion and Order Released January 22, 2001, in CC Docket No. 00-217.

3. Recent news reports indicate that BellSouth expects its Georgia § 271 application to be delayed by up to two months. See *Atlanta Journal and Constitution*, June 1, describing the situation as follows:

Phil Jacobs, President of BellSouth for Georgia, said Thursday that the state Public Service Commission will not vote on the issue until "the July-August time frame."

Although a June endorsement had previously been predicted, "this is a very complex process," Jacobs said.

Further delay in Georgia underscores the complexity of this process and the lack of any reason why this Commission should rush its review.

4. Under BellSouth's expedited schedule the period of time allowed for discovery and hearing preparation is insufficient to comply with the basic requirements of the South Carolina Administrative Procedures Act. Section 1-23-320 (e) S.C. Code of Laws, requires that "[o]ppportunity shall be afforded all parties to respond and present evidence and argument on all issues involved." Given the material thus far submitted by BellSouth it is patently clear that the parties to this proceedings will not have sufficient time to prepare for a hearing beginning July 23, 2001.<sup>1</sup>

5. The time frame allowed under the present schedule also appears insufficient to allow this Commission to adequately review BellSouth's application (and its voluminous supporting documents) in order to make a meaningful recommendation to the FCC on whether the § 271 application should be granted. For comparison purposes, every state where there has been a successful § 271 application has involved an active review by a state commission lasting well in excess of a year.


NewSouth Communications and the Cable Association, for the foregoing reasons, urge this Commission to reconsider the scheduling of the hearing in this matter. Fundamental fairness requires a sufficient opportunity for the parties to review and consider the application and supporting materials. No such opportunity is afforded under the current schedule. In addition, there is simply no good reason why this proceeding should be rushed. The result will be a decision which, even if it is an endorsement of BellSouth's application, could not be persuasive with the FCC. Rushing this

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<sup>1</sup> Staff in the office of the undersigned have thus far been able to print approximately half of the files contained on the compact disk submitted by BellSouth in support of its application. The stack of paper produced is already over six feet high.

proceeding is no way to advance the development of a truly competitive telecommunications market in this state.

ROBINSON, McFADDEN & MOORE, P.C.

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Attorneys for NewSouth Communications and  
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Columbia, South Carolina

June 6, 2001.

BEFORE

THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

DOCKET NO. 2000-0013-C

IN RE:	Proceeding to Address	)	
	Performance Measures	)	
	And Third Party Testing	)	COMMENTS OF
	Of the Operations Support	)	BELLSOUTH
	Systems (OSS) of BellSouth	)	
	Telecommunications, Inc.	)	
		)	

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On March 20, 2000, the Public Service Commission of South Carolina ("Commission") held an informal proceeding to address the third party testing of the Operational Support Systems ("OSS") of BellSouth Telecommunications, Inc. ("BellSouth"). In accordance with the Commission's ruling at the close of the informal hearing, BellSouth submits the following comments:

**SUMMARY OF COMMENTS**

BellSouth respectfully submits that a separate proceeding in South Carolina to review third party testing of BellSouth's OSS would be time consuming, costly, and of little benefit because such testing is ongoing in other BellSouth states. As indicated by William Stacey's presentation on March 20, 2000, third party testing of BellSouth's OSS is currently ongoing in Georgia and

Florida. This testing covers all aspects of BellSouth's electronic interfaces with a Competitive Local Exchange Carrier ("CLEC"), and also covers manual processes and performance measures. Because BellSouth's OSS is a regional system, there is no need to independently test BellSouth's OSS in South Carolina.

BellSouth is confident that the testing in Florida and Georgia will unquestionably demonstrate that BellSouth's OSS is operationally ready, and that non-discriminatory access is being provided to CLECs. Once the testing in these two states is completed, this Commission will have all the information necessary to monitor the performance of BellSouth's OSS.

In addition to investing millions of dollars to develop and continuously improve its OSS, BellSouth has developed self enforcing performance remedies, and such remedies are available to become a part of all interconnection agreements with CLECs. These performance remedies have been developed with input from CLECs, state commissions, and the Federal Communications Commission ("FCC"). The performance remedies contain a three-tiered enforcement structure. Once BellSouth obtains long distance relief in any one state, and in the event that BellSouth's performance is deficient, Tier 1 damages are

payable in all BellSouth states to any CLEC that has adopted the remedies into an interconnection agreement. Tier II and Tier III remedies are not available in a particular state until BellSouth receives long distance authority in that state. BellSouth's performance remedies will ensure that CLECs will continue to receive non-discriminatory access to BellSouth's OSS after BellSouth obtains long distance relief.

#### **COMMENTS**

##### **Status of BellSouth's Third Party Testing**

In an informal conference on March 20, 2000, BellSouth presented to the Commission an explanation of activities currently underway regarding the independent third party testing activities of BellSouth's OSS. These tests include all aspects of BellSouth's CLEC electronic ordering interfaces, as well as the testing of manual ordering, provisioning and performance measurements. Since all of BellSouth's electronic interfaces for the CLECs are regional systems, there is no need to do any further third party testing in other states.

To illustrate this point further, the following are some of the items that are being tested in the Georgia and Florida third party tests:



- Pre-ordering
- Ordering & Provisioning
- Maintenance & Repair
- Billing
- Volume testing
- Change Management
- Flow Through Evaluation
- Performance Metrics Review
- XDSL testing

#### Interstate Reliability Procedures Brief

In addition, BellSouth participates in weekly conference calls with the Georgia and Florida Commissions and the CLECs. Monthly status reports are published, along with all exceptions (specific test findings), on the respective web sites of the Commissions.

#### BellSouth's Incentive to Perform

BellSouth recognizes that its OSS must perform satisfactorily in order to receive long distance authority. With that in mind, BellSouth conducted a series of discussions with the FCC staff since the second petition for long distance relief for Louisiana was denied. In its order denying BellSouth's request for long distance authority in Louisiana, the FCC stated that it believed the

public interest necessitated that BellSouth establish a system of self enforcement measures to insure that BellSouth does not backslide in providing nondiscriminatory access to CLECs, after long distance authority is granted. Therefore, BellSouth developed a plan referred to as Voluntary Self-Effectuating Enforcement Mechanisms (VSEEM) that incorporated FCC desired characteristics, addressed CLEC comments, and considered the collaborative work effort by state commissions in BellSouth's region and elsewhere.

The plan contains both monetary and non-monetary incentives connected to the individual LEC and the CLEC industry, enforcement mechanisms that escalate with failure magnitude and duration, and renders payment within 30 days after the reporting period.

BellSouth's proposal is a voluntary proposal which has been incorporated in BellSouth's interconnection agreements with a number of CLECs, and is available to any CLEC in South Carolina. The plan contains a three-tiered enforcement structure that serves as a powerful incentive for BellSouth to maintain high levels of performance for all CLECs, after long distance approval, that is at least equal to services provided to BellSouth's retail customers. Each Tier operates independently, so Tier-1, Tier-2 and Tier-3 can all be active at the same time.

*Tier-1 Enforcement Mechanisms* means self-executing liquidated damages paid directly to an individual CLEC when BellSouth delivers non-compliant performance.

*Tier-2 Enforcement Mechanisms* means Assessments paid directly to a state Public Service Commission or its designee when BellSouth delivers non-compliant performance for CLECs in the aggregate.

*Tier-3 Enforcement Mechanisms* means the voluntary suspension of additional long distance rates of long distance services when BellSouth performance is out of compliance or does not meet the benchmark for the aggregate of all CLEC data.

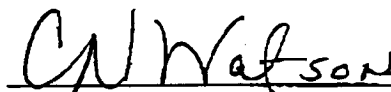
Under BellSouth's proposal, Tier I damages will be payable in all states once long distance relief is granted in one state. Thus, CLECs in South Carolina who have incorporated the plan into their interconnection agreements would be eligible to receive Tier I damages once BellSouth receives long distance authority in any one state. However, Tier-2 and Tier-3 remedies are not available in a particular state until long distance relief is granted in that state.

## CONCLUSION

BellSouth respectively requests that the Commission monitor the status of the third party testing activities in Georgia and Florida. A separate South Carolina proceeding to review third party testing would be redundant and extremely costly. BellSouth believes that when the third party testing activities are complete in Georgia and Florida, the Commission will have access to all the information it needs to evaluate and monitor the performance of BellSouth's OSS for itself.

Respectfully submitted,

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April 14, 2000  
205480

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**Docket No. 2001-209-C**

<b>In Re:</b>	)	
	)	
<b>Application of</b>	)	
<b>BellSouth Telecommunications, Inc.</b>	)	
<b>To Provide In-Region InterLATA</b>	)	<b>CERTIFICATE OF SERVICE</b>
<b>Services Pursuant to Section 271</b>	)	
<b>of the Telecommunications Act of 1996</b>	)	
_____	)	

This is to certify that I, Barbara Standridge, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Motion to Reconsider Scheduling Decision on behalf of NewSouth Communications and the South Carolina Cable Association** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

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Public Service Commission

Docket No: 2001-209-C

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Dated at Columbia, South Carolina this 6th day of June 2001.

  
Barbara Standridge